

**Introduced by Senator Calderon**

February 22, 2007

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An act to amend Section 18540 of the Elections Code, relating to elections.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 653, as introduced, Calderon. False or misleading information: penalties.

(1) Existing law makes it a felony punishable by imprisonment in the state prison for 16 months or 2 or 3 years for every person who, among other things, makes use of or threatens to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election.

This bill would also make it a felony punishable by imprisonment in the state prison for 16 months or 2 or 3 years for every person who acts under color of law and who knowingly or with reckless disregard for the truth provides, distributes, produces, disseminates, sponsors, authorizes, or finances the provision, distribution, or dissemination of any false or misleading information regarding either the time, place, or manner of any election; or the qualifications for, or restrictions on, voter eligibility for any election, as specified. By creating a new crime, this bill would impose a state-mandated local program.

The bill would authorize a civil action for money damages and other injunctive relief by any person aggrieved by a violation under these provisions.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 18540 of the Elections Code is amended  
2 to read:

3 18540. (a) Every person who makes use of or threatens to  
4 make use of any force, violence, or tactic of coercion or  
5 intimidation, to induce or compel any other person to vote or refrain  
6 from voting at any election or to vote or refrain from voting for  
7 any particular person or measure at any election, or because any  
8 person voted or refrained from voting at any election or voted or  
9 refrained from voting for any particular person or measure at any  
10 election is guilty of a felony punishable by imprisonment in the  
11 state prison for 16 months or two or three years.

12 (b) Every person who hires or arranges for any other person to  
13 make use of or threaten to make use of any force, violence, or  
14 tactic of coercion or intimidation, to induce or compel any other  
15 person to vote or refrain from voting at any election or to vote or  
16 refrain from voting for any particular person or measure at any  
17 election, or because any person voted or refrained from voting at  
18 any election or voted or refrained from voting for any particular  
19 person or measure at any election is guilty of a felony punishable  
20 by imprisonment in the state prison for 16 months or two or three  
21 years.

22 (c) *Every person who acts under color of law and who knowingly*  
23 *or with reckless disregard for the truth provides, distributes,*  
24 *produces, disseminates, sponsors, authorizes, or finances the*  
25 *provision, distribution, or dissemination of any false or misleading*  
26 *information regarding either (1) the time, place, or manner of any*  
27 *election, or (2) qualifications or restrictions regarding voter*  
28 *eligibility for any election, including any criminal penalties*  
29 *associated with voting in any election by ineligible voters,*  
30 *information regarding a voter's registration status or eligibility,*  
31 *or the sponsor, endorser, political party, or originator of any*  
32 *electronic, written, or telephonic communication that refers to a*  
33 *clearly identified candidate in any election, is guilty of a felony*

1 *punishable by imprisonment in the state prison for 16 months or*  
2 *two or three years.*

3 *(d) Any person aggrieved by a violation of subdivision (c) may*  
4 *institute a civil action in the superior court for money damages or*  
5 *for other relief, including an application for a permanent or*  
6 *temporary injunction, restraining order, or other equitable relief*  
7 *that the court deems right and just.*

8 SEC. 2. No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 the only costs that may be incurred by a local agency or school  
11 district will be incurred because this act creates a new crime or  
12 infraction, eliminates a crime or infraction, or changes the penalty  
13 for a crime or infraction, within the meaning of Section 17556 of  
14 the Government Code, or changes the definition of a crime within  
15 the meaning of Section 6 of Article XIII B of the California  
16 Constitution.